

TRINITY COUNTY {PRIVATE }
SPECIAL PLANNING COMMISSION HEARING
June 17, 2003 at 7:00 p.m.
Trinity County Library,
Weaverville

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1. CALL TO ORDER

Chairman Jaegel called the meeting to order at 7:00 pm. He stated that tonight's meeting was a public hearing, and that staff would not be answering any questions this evening.

Members present: Commissioner Keith Groves, Commissioner Ray Bushman, Commissioner Roger Jaegel, Commissioner Tom McKnight, Commissioner Jim Hahn, Planning Director John Jelichich, County Counsel David Hammer, Assistant Planner Janet Clements, Principal Planner Tom Stokely and Administrative Coordinator II Tina Teuscher.

Principal Planner Tom Stokely stated that there would be one more meeting in July regarding this project. At that time the Commission will make their recommendations to the Board.

Mr. Jerry Hauke called for protocol and asked when the Commission would get to voice their opinions regarding the project.

Chairman Jaegel stated that the Commission would make their recommendations on July 10th.

Mr. Hauke stated that they should be making changes to the document now and altering some of the alternatives. He stated that if they wait to long to speak, they will soon be told that the project is on time constraints for funding and then they would be rushed to make a decisions.

Commissioner Bushman stated that they couldn't make any decisions until they have all of the information and they would not have all of the information until July 10th.

Mr. Hauke argued that the Commission should direct staff to gather more information.

2. PUBLIC HEARING FOR DRAFT EIR TRINITY RIVER BRIDGES PW-03-04

Public Hearing regarding the Draft EIR/Environmental Assessment for the Trinity River Bridges Project on the Trinity River below Lewiston Dam. Applicant: Trinity County Planning Dept. and U.S. Bureau of Reclamation.

Tom Stokely presented the staff report. He pointed out that the draft EIR was released on May 5th and that the deadline for written comments was 5 pm on Thursday, June 19th. All written comments should be mailed to P.O. Box 1300, Weaverville. Tom stated that they would respond to all comments in writing. He explained that the EIR was a NEPA/CEQA document.

Commissioner Groves stated that at the last meeting he had asked about an EIR on the lake levels and Tom's response was that this project would not determine lake levels.

Tom stated that approving this project would not determine long-term fishery flows down the river.

However, it will allow the fishery flows described in the Trinity Record of Decision and will allow additional dam safety releases. All other aspects of the Record of Decision associated with the Final Trinity River Mainstem EIS/EIR have been directed to proceed under a federal court order. This includes the Trinity River Bridges Project. He mentioned that just because this project is approved does not mean that the water will go down the river.

Commissioner Groves stated that in one of the handouts, it stated that the new bridges would allow for an increase in the river flows. So in essence the new bridges will allow the river to go faster.

Tom stated that of course the increase in flows could not happen at all if the bridges were not raised. However, it does not guarantee that it will occur. He stated that there could be some other record of decision through the supplemental EIS/EIR process, the Interior Secretary may select a different preferred alternative.

Commissioner Groves stated that the handout then was not final. Tom stated that it was not. He also mentioned that the time schedule in the pamphlet was not correct.

Commissioner Groves asked who would make the decisions on the flows. Tom stated that the Secretary of the Interior made those decisions, not Trinity County.

Chairman Jaegel asked Tom why there were two legal ads in the Journal.

Tom stated that the first one was for the public hearing and the second one contained a statement about what the significant impacts would be. He mentioned that they had mailed legal notices to all adjacent land owners, posted them at the bridge sites and placed them in the paper.

Chairman Jaegel stated that the main concern regarding the Salt Flat Bridge was whether or not it should become a public bridge. He asked if the bridge became public, would the Salt Flat residents still be able to gate off their community. Tom stated yes.

Chairman Jaegel asked if that was a viable alternative. Tom stated yes it was.

Chairman Jaegel stated that in looking at the other bridge sites, it appears as though there was some BLM land in the vicinity. He asked if there was any consideration to changing the status of the other bridges as well.

Tom stated that they did not receive any scoping comments to make the other private bridges into public roadways so they did not look into the issue.

Commissioner Hahn asked Tom to go through the funding for all four projects.

Tom stated that they had signed grant agreements from the California Department of Fish and Game for both the Salt Flat and the Biggers Road bridges. They have \$431,000 from Fish and Game under their Coastal Salmon Recovery Program, for the Salt Flat Bridge. They also just received a time extension until March 31, 2005. There is a signed agreement from Fish and Game for \$500,000 from the same program for the Biggers Road Bridge. There is approximately \$1.6 million in the Trinity River Restoration Program budget through the Bureau of Reclamation for the Biggers Road and the Salt Flat Bridges. In order to keep this money a contract must be signed by September 30, 2003.

As far as the Poker Bar bridges go, the funding is not yet lined up; however, staff has sent off grant

applications. He stated that if all went well, they could have all bridges completed by the end of next year.

Ed Solbos, Project Engineer, stated that Tom was right, if everything went as planned, all of the bridges could be completed by the end of 2004.

Tom McKnight asked why we are upgrading the bridges if they are going to remain private. Tom explained that any new projects must be in compliance with the County Fire Safe and Floodplain Ordinances. The Floodplain Ordinance requires the bridges to be elevated above the 100 year floodplain. The Fire Safe Ordinance requires a 2 lane, 18' wide bridge that can hold 40,000 pounds of weight.

Chairman Jaegel opened the public hearing.

Sandy Evans, Salt Flat resident, stated that Pat O'Connell had hosted many meetings and Kristi Bevard was the head of the road maintenance committee. Her husband built their house in 1981. She has had many fishermen and engineers ask to cross her property.

She stated that it was Federal Agencies that wanted to replace the bridge, not the landowners. She believes that the bridge should remain private, because if it were to become public, the trash would be unbearable. From her house, she can see the center island in the river. She stated that she has seen people going into the willows to go to the bathroom and she does not like it.

Mrs. Evans knows a gentleman that lives on Steelbridge Road. He had a piece of land next to him become public and it is used as a dumping site. She also knows of a couple that lives next door to BLM land. When BLM resurveyed the property they told the couple that their house was on BLM land. She does not like having BLM involved in any way.

a.

She stated that the Indians would be a lot better off if Salt Flat Bridge remained private. People would not be allowed to come over and go hunting, and they would not have easy access to the burial site.

Mrs. Evans stated that Mr. Brant Gutermuth's name should not have been on the last letter she submitted.

She brought a letter from her neighbor Ms. Marylann Rubi and read it to the Commissioners and it was submitted into the record.

Jerry Hauke, resident of Trinity County, stated that he had three proposals for the modification project. Proposal #1 contains a turn around for an emergency vehicle. Proposal #2 is to provide for administrative access by BLM. He believes that BLM is a major player in the project. He stated that they have cultural and historic resources across the river and they are providing right-of-way for the bridge to be built. He doesn't understand why they can't cross the bridge when it is paid for by public money. Mr. Hauke stated that if SPI could cross the bridge to get to their timberlands, why not let BLM cross it.

b.

He believes that the proposed action should include a proposed parking area for fishermen on the Goose Ranch Road, side of the river. It is part of the Trinity County General Plan to have another public fishing access in Lewiston.

Mr. Hauke stated that an individual had recently purchased that land accessing the BLM land. The

Salt Flat property owners have a non-exclusive right-of-way (40-feet wide) over his property. He can let anyone use that right-of-way as he so chooses. He stated that the county could purchase a public easement there. It is not a controlled right-of-way, the residents of Salt Flat have a non-exclusive easement.

Mr. Hauke explained that if the County does not purchase the right-of-way now and piggyback onto this project, it will never happen. The County cannot afford to purchase it on its own and the political will is not there.

He stated that the Salt Flat approach is a fill (4-feet of dirt), if you place a guard rail on the fill, no one will get through it to park. If you give people authorized parking and put a right-of-way fence up, you can mitigate the problems that are discussed in the EIR.

Groves asked Mr. Hauke if he thought that the project should be condemned if the property owners did not want to sell their land.

Mr. Hauke stated that the county had taken land from property owners on Rush Creek for the widening of the road, why couldn't they just take this land. Mr. Hauke said whatever it takes to do it should be done.

Mr. James Evans stated that SPI did not have access Salt Flat, they have to get permission from the Homeowners Association to go across the bridge.

c.

Mr. Duane Pape, resident of Lewiston, stated that SPI and BLM have their lands gated off. A public bridge at Salt Flat would give the residents and tourist a way to get to BLM land for public use. He believes that the bridge should be public with a gate at the other end for the privacy of Salt Flat.

d.

Mrs. Kristi Bevard, resident of Salt Flat, stated that Salt Flat was a private neighborhood. She enjoys the quietness of the neighborhood. She stated that the general consensus of Salt Flat property owners was to keep the bridge private with no public access. Alternatives 1 and 2 placed BLM right in the middle of their lives. Any agencies or groups that cooperate with BLM would be able to use the bridge. People would be able to come at any time and there would be no way to regulate whether or not a person was there for a legitimate purpose or not. She submitted pictures documenting trash at different public access sites. She also submitted an article explaining the desecration of the Natural Bridge site in Hayfork, a sacred Indian site that is public. She supports the proposed action or no action at all. She stated that the Salt Flat residents have the right to quiet enjoyment.

e.

She provided photos of litter over the last 2 weeks at Cemetery and Bucktail public recreation sites. Mrs. Bevard also asked the Commission to investigate the "collusion" between BOR, BLM and Trinity Co. regarding the mine tailings to the south. She believes that it should not be a condition of approval of this project to provide access to that land.

Mr. Jack Catt, resident of Salt Flat, stated that his father was a long time resident of Salt Flat. About four years ago, a couple of solicitors came up to his parents' property and harassed his mother and father. He told the Commission that this type of thing would start to happen more and more if the bridge was made public.

f.

He believed that because of the river restoration project, the homeowners of Salt Flat were being forced to replace their bridge against their will, and in replacing their bridge they were also losing their privacy and all of the money that they put into building and maintaining the bridge.

As far as the public funds issue went, he asked the Commission not to forget that the residents of Salt Flat were also taxpayers, and their tax dollars were being used to fix all of the other bridges as well.

Steve Mitchell, resident of Lewiston, thinks that the bridge should be made public, but there should be a gate at the other side to keep people out of the Salt Flat subdivision. He stated that he knows a lot of Salt Flat residents and he respects what they are trying to fight for. He stated that having a public bridge with a gate for privacy is a great alternative for both sides. g.

Nancy Tennyson, resident of Salt Flat, a founding member of the Lewiston Trails Club, a member of the Lewiston De-litter Bugs, the Lewiston Garden Club and the Sunday in the Park Gang, all dedicated to beautification of public property in the Lewiston area. She thanked the agencies for working hard to listen to the concerns of the property owners at Salt Flat. She noted that public funds are being used to restore the Trinity River. Several structures stand in the way of its restoration. Public agencies have gone to great lengths to analyze the bridge problem.

She stated that during the scoping process last year, the Salt Flat property owners sent a letter to the County and to the Bureau of Reclamation stating their wish that the new bridge be located as close as possible to the location of the old bridge and that the bridge remain private. Owners of property at Salt Flat have spoken out against Alternative 2. She feels that the mitigation measures in the EIR that accommodate public access cannot reduce this to a less than significant impact. h.

She stated that Lewiston was not lacking in public access. There are 13 sites between Lewiston Dam and Grass Valley Creek. She is in full support of the proposed action. She recommends that the Commission recommend to the BOS that they certify the EIR and choose the proposed action. She stated that there are several other folks who were not able to make it to the Commission meeting. They sent letters with her in support of the proposed action. She submitted them to the Commission and they will be included in the public record. She also submitted her own letter.

Mr. Patrick O'Connell, Salt Flat property owner, stated that the Salt Flat property owners have been working in cooperation with the Trinity River Restoration Program for over a year. In that time they have grown to appreciate the open communication and the responsiveness to their concerns regarding the replacement of the Salt Flat Bridge. i.

He stated that the overall success of the Trinity River Restoration Program depends heavily on the private landowner cooperation. He stated that in order to encourage maximum cooperation, the Commission must assure all effected private property owners that their cooperation with this program will not result in the forfeiture of their private property.

Mr. John Ward, resident of Salt Flat, stated that in regards to public funds, the replacement of the bridge is to facilitate the restoration of the Trinity River, and to grant the Bureau of Reclamation more flexibility in lake level control to avoid possible breach of the dam. He stated that in his opinion those two issues grant the use of public funds for private use. Public access to the Trinity River or to BLM land is not at all justified. j.

He mentioned that the addition of one more public access in no way justifies the confiscation of a private bridge.

Mr. James Bonk, resident of Lewiston, stated that he and his wife own the property from Goose Ranch Road to 100 ft of the Salt Flat Bridge. He stated that his cooperation was being requested for k.

Alternatives one and two. He and his wife have no desire to cooperate for construction of alternatives one and two. They have no desire to allow their property to be used as a construction staging area for those alternatives.

He stated that at the last meeting, Mr. Hauke distributed a drawing showing the "Proposed Action Private Bridge Downstream". This drawing depicts Jerry's proposal for a "fishermen's Access/parking" area on the BLM property that is immediately West of their parcel. He explained that this area accesses the side-rearing channel not the main river body. This area floods when the River flow is 2500 cfs and is not conducive for development of a parking lot. He stated that he would also like to deny vehicle access to this area, as the waterline to their seep well is located directly under the proposed parking area.

Mr. Bonk mentioned that it was brought to his attention that someone had purchased the dredger tailings located in Salt Flat. He heard that BLM was going to put in a temporary bridge to get to the tailings for use for river restoration. He stated that an in-depth effort should be expended regarding the construction of a permanent bridge in this area to replace the existing Salt Flat Bridge.

Mrs. Milo Richards, resident of Salt Flat stated that she owns the first house pasted the Salt Flat Bridge. She stated that the gentleman that lived there before her, used to chase the trespassers away. She does not do that and the traffic has quadrupled. She is from the Bay Area and the first year that they were in Salt Flat, they started to see deer hunters on their property. They had neighbors who lived next to BLM land, which could not get out of their driveway, because the deer hunters had used their driveway for a parking lot. One of her neighbors got up one morning to see men dressed in camouflage outside her window, lurking in her yard. She stated that they wanted to keep Salt Flat clean and safe for their children and grandchildren. She stated that their goal was not to keep people out, but they did need to have some sort of control as to who came in. She asked that the bridge remain private.

Mrs. Suzy Nawrock, Salt Flat owner stated that she was originally from New Jersey. She and her husband moved to Salt Flat for the quite and private area. Last year she had three hunters on her property. When she asked them what they were doing, that actually asked her where all of the deer were. She stated that having a public access would allow more people to get in. She stated that even though there is a gate, it does not mean that it would keep out the deer hunters.

She remembered last year when there was a person who came over to Salt Flat driving like a maniac, he hit three houses, left Salt Flat and vandalized a home on Goose Ranch Road.

She explained that her husband does stop people who are not residents of Salt Flat. She stated that there were a couple of motorcyclists who had come in and he stopped them and told them that they were on private land. They stated that they had come in from Bucktail. She stated that Bucktail being a public access area allows for individuals to get to Salt Flat. If someone wants to get in, they will.

She stated that if the bridge becomes public and BLM has control, that gives them to much power. She knew someone that was landlocked by BLM and was held hostage to do things that BLM wanted them to do, in order to get their easement every year.

She stated that the rock tailings were for sale for a long time. Since the replacement of the bridge project, it sold very quickly. She then heard that they were going to have a rock quarry. She asked the Commission to think about the residents of Salt Flat as if it were happening to them.

Richard Lynn, resident of Goose Ranch Road, asked that they use Alternative One and place the bridge on BLM land and not on private property.

n.

Jim Evans stated that he lives next door to property where the cobbles are located (Weigel Property). He has lived there for 23 years. He had the property appraised, did a title search, offered to buy the property from Betty Weigel, and offered to lease it from her to fill in a pond with mosquito problems. She didn't pay taxes on it for many years. His property adjoins hers for 400' and he pays substantial taxes. Despite his best efforts to purchase or lease it, it's now being sold to Scott McBain, a consultant to the Trinity River Restoration Program (TRRP).

o.

He stated that he had shown the property to Scott McBain and told him that the gravel mine at Bucktail wanted to bridge the river to utilize the tailings but couldn't get permits. Now Mr. McBain is buying it with the intent of building a bridge and selling rocks to the Trinity River Restoration Program. He feels that Scott must have had an "in" to be able to purchase that property.

Chairman Jaegel closed the public hearing.

Commissioner Bushman asked what was required for public access? County Counsel Hammer stated that there was no law that requires a private owner to allow public access to the Trinity River, unless the owner is requesting something from the County such as a subdivision.

Commissioner Bushman stated that in this case we were talking about a bridge. Mr. Hammer stated that the issue had been pretty well addressed by everyone here. The fact that public funds are being used, tends to lead people to believe that it should be a public bridge. He stated that this did not make it valid. In this case it is Federal funding for the project, if the Federal Government wants to pay money to put in a private bridge for purposes other than public access such as river restoration, they can.

He explained that the issue of making it a public right-of-way is a separate issue. Whether or not the County wants to make a public access through there is really something that the County can do at any time. They can take land by eminent domain and put in a public access whenever they choose.

Mr. Hammer explained that to acquire the property, the County must make an offer to the property owner based on fair market value. The County must give property owners reasonable time to reject or accept an offer. Usually it's 15 days. If the offer is rejected, the County is required to obtain a Resolution of Necessity from the Board of Supervisors, which requires a 15 day notice prior to the public hearing. Immediately after adoption of the Resolution, the County can file for eminent domain and gain possession. At least 60 days is required with a maximum of 90 days. Landowners' recourse is to the courts. A court has the power that there wasn't an appropriate finding of public necessity, but that's very unusual. The court issue is generally the amount of compensation.

Chairman Jaegel asked Tom how much BLM land was on the other side of the river. Tom stated approximately 70 to 80 acres. Chairman Jaegel asked if there was any other way to access that land. Tom believes that you can access it through SPI land. Tom stated that the Nor-Rel-Muk tribe had permission from BLM to get to their burial site.

Commissioner Hahn asked about funding. He stated that in ES-1 of the introduction, the second to last paragraph, it looked as if Poker Bar had been left out. Salt flat is mentioned twice, however, Poker Bar is not mentioned at all.

Tom explained that the Salt Flat Bridge was funded by both State and Federal sources and that the Poker Bar Bridge was not yet funded. However, they have submitted a grant application to the CA Department of Fish and Game and the State Water Resources Control Board for partial funding.

Chairman Jaegel asked Tom Stokely to summarize the changes recently made in the EA/EIR since it has been published.

Tom answered that when the consultants prepared the property ownership lines, they used the County assessor parcel maps which were not completely accurate. The bridges were shown on the wrong property in the Draft. They felt that was a significant mistake and they opted to fix it before the closing of the public comment period.

Commissioner McKnight noted that on ES-12, Poker Bar was left out under geology. Poker Bar and Salt Flat were left out under the water resources section.

Tom explained that it is because there were no significant impacts at those sites, so they are not listed.

Commissioner McKnight stated that it would be nice if we listed "No Impact" for those sites rather than leaving them out.

Tom mentioned that there was a table in the document that listed all impacts for each resource area and bridge site.

Chairman Jaegel asked Tom if in the comments staff would be addressing Mr. Hauke's modifications. Tom answered that staff would respond to his comments.

Tom gave the Planning Commission an overview of the schedule for the project and the EIR certification process. The Commission will consider making a recommendation to the Board of Supervisors on certification of the EIR and approval of the Floodplain Development Permits at their regular July 10 meeting. The Board of Supervisors will consider certification of the EIR and approval of the Floodplain Development Permit at its July 15 meeting. Shortly thereafter, BLM and BOR should approve the Finding of No Significant Impact (FONSI). Then landowner negotiations can begin, with eventual signing of a construction contract.

3. PUBLIC COMMENT

Members of the public may address the Planning Commission concerning matters within its jurisdiction, which are not listed on the agenda. No action may be taken on these matters.

None

4. ADJOURN

Chairman Jaegel called the meeting to order at 8:30pm.

RESPONSE TO COMMENT: 44

Trinity County Special Planning Commission Hearing, Meeting Minutes (June 17, 2003), Oral Comments

44-a: Sandy Evans - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required (see response to comment 33).

44-b: Jerry Hauke - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required (see response to comments 1,2,3,11,29,30,31,39,43-b).

44-c: Mr. James Evans - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required (see response to comment 4).

44-d: Mr. Duane Pape - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required (see response to comment 43-a).

44-e: Mrs. Kristi Bevard - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required (see response to comments 9,26).

44-f: Mr. Jack Catt - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required (see response to comment 28).

44-g: Steve Mitchell - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required.

44-h: Nancy Tennyson - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required (see response to comment 21).

44-i: Mr. Patrick O'Connell - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required (see response to comments 25, 43-c).

44-j: Mr. John Ward - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required (see response to comment 35).

44.k: Mr. James Bonk - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required (see response to comments 10, 23).

44-l: Mrs. Milo Richards - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required.

44-m: Mrs. Suzy Nawrock - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required.

44-n: Richard Lynn - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required.

44-o: Jim Evans - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required (see response to comment 4, 44-c).